

March 23, 2023

Chairman Bruce Westerman
Committee on Natural Resources
1324 Longworth House Office Building
Washington, D.C. 20515

Ranking Member Raúl Grijalva
Committee on Natural Resources
1332 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Westerman, Ranking Member Grijalva, and Members of the Committee,

I write in support of the legislative hearing the Subcommittee on Federal Lands will hold on Congressman Rosendale's Forest Information Reform (FIR) Act, which takes up the important question of fixing the disastrous consequences that came from the 2015 *Cottonwood Environmental Law Center v. U.S. Forest Service (Cottonwood)* decision.

The *Cottonwood* decision has caused significant damage by delaying necessary forest management work, which has hampered wildfire mitigation efforts and wildfire restoration projects on our public lands and National Forests leading to a higher risk of wildfire. For example, a proposed forest management project in the Lewis and Clark National Forest of Helena, Montana, was delayed by *Cottonwood* litigation. Soon after, the Park Creek and Arrastra Wildfires burned over half of the proposed treatment area damaging forest health and valuable wildlife habitat. Unfortunately, this cycle of litigation delays and wildfire is not a unique occurrence. *Cottonwood* litigation can involve multiple states and multiple forests in the same delays. This happened to five national forests in New Mexico and one in Arizona that were embroiled in *Cottonwood* litigation, which delayed forest management work and put at risk millions of acres of national forest. In the wake of these delays, the Hermits Peak Fire became the largest wildfire in New Mexico's history. A permanent fix is urgently needed to stop the frivolous attacks against responsible forest management.

In 2018, Congress included a partial *Cottonwood* fix in the Consolidated Appropriations Act, which amended consultation requirements for the Forest Service and BLM. National Forest System lands and BLM lands were exempted from re-initiation of consultation, under certain circumstances, but this fix expires today. This hearing on the FIR Act is timely as the Committee will hear updates from the Forest Service on the expected result of this expiration. In 2021, at a Senate Energy and Natural Resources hearing, Deputy Chief of the National Forest System, Chris French testified that approximately one hundred forest plans will have to immediately initiate a re-consultation as a result of the expiration, which would cost millions of dollars over several years, not to mention the possibility of even more litigation that would slow or stop forest management projects. This would be devastating for forested communities as we enter the 2023 fire season.

A *Cottonwood* fix is critical for forest and ecological health and has enjoyed bipartisan support in the Senate. Last Congress, the Senate Energy and Natural Resources Committee passed my

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bill that would fix the 9th Circuit's *Cottonwood* decision, S. 2562, by voice vote. It is time we get this permanent fix signed into law and I thank the Committee for the persistent work in this shared goal.

I look forward to working with you, the House of Representatives in its entirety, and my colleagues in the Senate to send a *Cottonwood* fix to President Biden's desk.

Sincerely,



STEVE DAINES
United States Senator